

Fremont Conservation Commission
02-04-08 Minutes



Fremont Conservation Commission
Minutes of February 4, 2008
Approved March 3, 2008

Present: Chairman Jack Karcz, Members Janice O'Brien, Bill Knee and Tina Sturdivant, Alternate Pat deBeer and Recording Secretary Meredith Bolduc.

At 7:30 pm Chrm. Karcz opened the meeting and appointed Alt. deBeer as a voting member for this meeting.

MINUTES

Mbr. O'Brien made the motion to accept the minutes of the January 7, 2008 meeting as written. The motion was seconded by Mbr. Sturdivant with unanimous favorable vote.

EASEMENTS

There was a conversation relative to the funding of legal fees for Conservation Easements. After a brief discussion Mbr. O'Brien made the motion that when warranted, the Conservation Commission may choose to vote to fund the legal fees of Town Counsel associated with Conservation Easements. Motion seconded by Alt. deBeer with unanimous favorable vote.

IAONNIS KAKOURIS / ROBERT PREMONT

Map 3 Lot 119

Present: Representing Surveyor Timothy Lavelle, Robert Premont

At 7:33 pm Mr. Lavelle met with the Commission relative to the Conservation Easement that is currently attached to the property at Map 3 Lot 119. He agreed that there is some confusion as to the actual easement area and that the easement language identifies the easement property as "Property as more specifically described in Schedule A" which reads "A certain parcel of land being known as Lot 119 on Plan entitled "Lot Merger Plan for the Fremont Pizzeria, 431 Main Street in Fremont, New Hampshire, Tax Map 3, Lot 119 dated May 12, 2004 and recorded at the Rockingham County Registry of Deeds as Plan No. D-31624." The use limitations state that "the easement property shall not be further subdivided". Mr. Lavelle agreed that the easement reads that the entire property is involved in the easement area, but the intent of the easement was for 250' along the Exeter River.

Chrm. Karcz stated that Town Counsel John Ryan has advised that in order to change the language of the Conservation Easement deed and for a new amended /corrected easement deed to be drawn, both parties, being the Fremont Conservation Commission and the property owner, need to meet and agree on the intent of the original easement and the new language.

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The plan which shows a 250' Conservation Easement along the Exeter River was reviewed by the Members and Mr. Lavelle. It was noted that the Conservation Commission minutes of March 8, 2004 indicate a possible 340' Conservation Easement on the back portion along the Exeter River; there was a joint board site visit on March 20, 2004, but no recorded minutes; the ZBA meeting minutes of March 23, 2004 and the March 24, 2004 Planning Board indicate the gift a Conservation Easement of 250' along the Exeter River; and the March 31, 2004 Planning Board Site Plan Review approval is included the condition that "the 250' Conservation Easement along the Exeter River that is to be gifted by Mr. Kakouris be approved and accepted by the Fremont Conservation Commission."

Chrm. Karcz stated that he believes the Conservation Commission was looking for an easement of 250'. It was noted that the owner had the easement drawn by his own attorney and he signed it. Alt. deBeer said that in her opinion the Commission should talk to other people relative to, and before, changing the easement language. Mbr. Knee stated that the intent was to create a buffer zone that was in Conservation easement to preserve the 250' setback along the river. Mr. Knee stated that he is comfortable with changing the legal description to reflect the 250'. Mbr. O'Brien stated that it is her understanding that the owner is proposing to change the easement location, not the intent of the easement. Mr. Lavelle agreed. Mbr. O'Brien stated that it seems fair to amend the easement deed to reflect the original intent.

Mbr. Knee made the motion that the Conservation Commission is amenable to having the legal description of the Conservation Easement deed for Kakouris property at Map 3 Lot 119 changed to reflect the easement area as the 250' setback to the Exeter River, as was the original intent of the Easement based on the plan #D-31624.

Mbr. O'Brien seconded the motion with unanimous favorable vote.

Chrm. Karcz noted that Plan No. D-31624 states that it is sheet 1 of 2, but there is no record of sheet 2 recorded at the Registry of Deeds and it cannot be located in the Town files. He asked Mr. Lavelle if there is a sheet 2 or if the note on sheet 1 stating "sheet 1 of 2" is erroneous. Mr. Lavelle stated that he does not have a sheet 2 and he will contact Vernon Dingman, who drew the original plan, to find out if there is a sheet 2 and, if so, where it is. Mrs. Bolduc stated that Town Counsel has stated that sheet 2 is the one that can point to the easement area and needs to be recorded.

Mr. Lavelle stated that the owner's attorney will draft the corrected easement. Mbr. O'Brien suggested that there be a separate affidavit explaining that the reason for the need for an amended easement is to correct an erroneous legal description that was done through error and oversight on the original easement. The new easement deed and the affidavit would be reviewed by Town Counsel prior to being signed by the owner and the Conservation Commission Chairman. Mr. Lavelle and the Conservation Commission Members agreed that the drafting and review of the new easement will be done at the owner's expense.

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GLEN OAKES FOREST & WILDLIFE MANAGEMENT PLAN

Forester Charles Moreno was scheduled to meet with the Commission at 7:30 pm, but did not attend. It was noted that one of the things Mr. Moreno is currently doing is blocking off sections for species inventory. The Members agreed to schedule an appointment for Mr. Moreno at the next meeting.

STEVEN ROBBINS

Map 6 Lot 62-12.02

At 8:25 pm Mr. Robbins met with the Board to gain general information relative to conservation easements. He stated the he has a 2.8 acre property on Karlin Road that abuts the rail trail and wondered if an easement might be beneficial to the town for the area of a drainage pipe that runs under the road or for a horse trail through the property. Chrm. Karcz explained that normally conservation easements are to protect a unique area such as buffer along a river or an area of some size, usually not less than about 10 acres. Mr. Robbins was given the address of the UNH Co-operative where he could obtain the "Conserving Your Land" handbook to learn more about easement. Mr. Robbins thanked the Members and left the meeting at 8:35 pm.

NATURAL RESOURCES OUTREACH COALITION (NROC)/ NRI

Chrm. Karcz reported that the updated NRI maps have been completed by David West of RPC and received. There are 6 new E-size (36" x 48") maps. Printing the maps as a D-size set for the Land Use Office was earlier requested, but the contract calls for the printing of one set and the funds do not allow for a second set. Mr. West has indicated that he can print up the maps at the standard rate which is \$20 or \$25 if the maps have the Photos. So the price would be \$125 (5 at \$20 and 1 at \$25).

Chrm. Karcz said that Mr. West has also related he can get a price quote for a new version of the tax map overlay, but he cannot do that project at this time as it would take a decent amount of time and work. It was the consensus of the Commission to obtain the price on the cost of the overlay from Mr. West.

MAP DISPLAY RACK

There was a discussion relative to the purchase of a map display rack for the NRI, and other maps. Chrm. Karcz reported that Planning Board Chairman Roger Barham is checking to see if his company has some extra racks. It was agreed to keep looking and pricing for now.

NEW HAMPSHIRE ESTUARIES PROJECT (NHEP) - COMMUNITY TECHNICAL ASSISTANCE PROGRAM (CTAP)

Chrm. Karcz reported that the Board has received the "Community Technical Assistance Program Request for Community Applications – Round 3". This document states that the New Hampshire Estuaries Project (NHEP) is accepting applications for municipal planning boards and conservation commissions through Round 3 of its Community Technical Assistance Program. These projects will be initiated in 2008. The correspondence explains that the NHEP's Community Technical Assistance Program is a separate program from the NH DOT's Technical Assistance Program.

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Mbr. O'Brien stated that she will apply for a grant for the Glen Oaks Forest and Wildlife Management Plan.

PRIME WETLAND MAILER

There was a conversation relative to creating an information mailer to the Fremont voters for the amendment to the Prime Wetland Zoning Ordinance. After some discussion the Members decided not to put out a mailer.

WOODLANDS ASSOCIATION

Chrm. Karcz reported that Selectman Gene Cordes has forwarded the information that on May 10, 2008 the Rockingham County Woodland Owners Association (RCWOA) is having its annual spring walk. This year they would like to walk the Glen Oaks Town Forest. A member of RCWOA will be contacting Dave Anderson of SPNHF to see if he is available to come to Fremont to do a walk and talk. RCWOA would very much like any and all of the Fremont Conservation Commission and Open Space members to speak or otherwise lead or participate. Mbrs. Sturdivant and O'Brien stated that they will attend the walk. Chrm. Karcz suggested that it would be nice if Charlie Moreno would be there to speak as an expert about the forest.

ERLAC

Signs

Mbr. Sturdivant reported that she has not heard anything about the additional river sign and protected river sign for the rail trail and she will check on it.

Workshops

Mbr. Sturdivant reported that at the last meeting ERLAC went over the work plan for 2008. They have decided not to do the Alewife festival again, but they are going to host the Vernal Pool workshop in Danville in May, a Shoreland Buffer Landscaping presentation in April, a Macroinvertebrate Workshop in the late summer/early fall and a Culvert Design Maintenance Fall Workshop. She will report the dates and more information as it becomes available.

Watershed Restoration Plan

Mbr. Sturdivant reported that Geosyntec is not going to move forward with a watershed restoration plan. Sally Soule and Steve Couture are coming to the next ERLAC meeting with information relative to the identity of the new company that will take over the project.

David Knowles of is doing a study of the Fluvial Geomorphology of the Exeter River Basin. The objective of this study, which will go through November 2008, is to identify flood damaged areas in the entire 128 square mile watershed for the Exeter River, with emphasis on the downstream end within the Town of Exeter, obtain information that will assist in stream restoration projects and identify opportunities to reduce future flood damage.

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Sandown Conservation Project

Mbr. Sturdivant reported that Sandown is looking to conserve a huge area in the north/central part of the town abutting the rail trail and she will share more information as it becomes available.

GLEN OAKES

Mbr. Sturdivant asked Mbr. O'Brien if Richard Wright has contacted her relative to his offer to help with GPS mapping of the Glen Oakes trails. Mbr. O'Brien answered in the affirmative.

SCRIBNER ESTATES

Map 2 Lot 001

Chrm. Karcz stated that, as directed at the last meeting, a January 8, 2008 correspondence was sent from the Commission to Daniel Perry, for Scribner Estates, requesting that he adhere to the agreement (and June 25, 2003 subdivision approval condition) to draw the Conservation Easement(s) for the parcels affected and submit them to the Conservation Commission for approval and signatures. It was stated in the correspondence that the alternative was that the Commission could consult with Town Counsel to have the easements drawn up for Mr. Perry's approval and signature to facilitate the resolution of this issue and the Commission agreed that the developer should be responsible for obtaining the signature and agreement of the owners of the property that has already been conveyed. Mrs. Bolduc stated that that there has been no response from Mr. Perry.

Mbr. Knee stated that he is clear that back in 2003 Mr. Whiteside did offer that the Conservation Commission would pay to have the easement deed drawn, but he also remembers that Mr. Perry said he did not need the Conservation Commission to draw it up the because he had done that sort of thing before and he would use his own attorney.

Chrm. Karcz stated that Town Counsel John Ryan has been contacted and it is his opinion that the condition of the issuance of the Conservation Easement deed must be met in order to avoid revocation of the subdivision approval.

It was the consensus of the Board to have Town Counsel draft a correspondence relative to the implementation of the agreed Conservation Easement Deed.

CARSTEN SPRINGER

Map 1 Lot 062

The Commission received a NH DES Standard Dredge and Fill Application for Carsten Springer for a beaver control pipe that was constructed to replace an old wooden pipe at his property at the above referenced location. It was agreed that because this was done by the State Trails Bureau and not by Mr. Springer this is a State Agency interdepartmental issue and there is no need for the Commission to act on the application.

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INCOMING CORRESPONDENCE

1. Society for the Protection of New Hampshire Forests 2008 membership renewal form in the amount of \$50.00. Mbr. Sturdivant made the motion that the dues be paid. Motion seconded by Alt. deBeer with unanimous favorable vote. This amount is to be taken from the Conservation Commission budgeted funds.
2. Notice of the Comprehensive Shoreland Protection Act Update - Workshop
Wednesday February 13, 2008, 8:00 am to noon at the Hugh Gregg Coastal Conservation Center,
Sandy Point Greenland, NH

Mbr. Knee made the motion to adjourn at 9:55 pm.

Motion seconded by Alt deBeer with unanimous favorable vote.

Respectfully submitted,

Meredith Bolduc

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